IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

MONDAY, THE 26TH NOVEMBER 2007 / 5TH AGRAHAYANA 1929

WP(C).No. 1150 of 2004(J)

PETITIONER:

RAJAN THOMAS, KALLUMGAL HOUSE,
PULIMTHANAM P.O., POTHANICADU,
KOTHAMANGALAM.

BY ADV. SRI.JOMY GEORGE

RESPONDENTS:
----

1. TAHSILDAR, DEVIKULAM,
IDUKKI DISTRICT.

2. REVENUE DIVISIONAL OFFICER,
DEVIKULAM, IDUKKI.

3. DISTRICT COLLECTOR, IDUKKI.

4. STATE OF KERALA, REPRESENTED BY
ITS CHIEF SECRETARY, GOVERNMENT SECRETARIAT,
THIRUVANANTHAPURAM.

BY GOVERNMENT PLEADER SMT. LATHA THANKAPPAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26/11/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WP(C) NO: 1150/2004 J

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE SALE DEED IN FAVOUR OF THE PETITIONER DT. 23/10/01.

EXT.P2. COPY OF THE REPRESENTATION BEFORE THE R2 DT. 17/10/03.

EXT.P3. COPY OF THE LETTER DT. 26/11/03 SENT BY THE R1 TO THE PETITIONER.

EXT.P4. COPY OF THE REPRESENTATION DT. 20/12/03 BY THE PETITIONER TO THE R2.

EXT.P5. COPY OF THE NOTICE ISSUED BY THE R1 FOR THE AUCTION OF THE PROPERTY DT. 26/11/2003.

RESPONDENT'S EXHIBITS **NIL.**

True copy

tga

KURIAN JOSEPH J.

Writ Petition (Civil) No.1150 of 2004

Dated 26th November, 2007.

J U D G M E N T

Petitioner approached this court aggrieved by Exts.P3 and P5 notices. Petitioner is an auction purchaser of the property referred to in the notices. The auction was conducted on 28.2.2003. Being a successful bidder in the auction, after depositing the entire bid amount, the petitioner was put in possession of the property. After about ten months, Ext.P3 notice was issued by the Tahsildar stating that the Revenue Divisional Officer, by proceedings dated 6.11.2003 had set aside the sale. Petitioner submits that no notice whatsoever was issued to him regarding such proceedings before the Revenue Divisional Officer. In the statement filed on behalf of the first respondent, it is stated as follows :-

> "The Revenue Divisional Officer in his proceedings No.B7-5767/02 dated 6.11.2003 set aside the sale conducted on 28.2.2003 on finding that the bid amount which includes value of a building existed in the land, was too low."

I am afraid, the reason cannot be appreciated. As held by the Division Bench of this court in **Subaida Sulaiman v. Hamsa** [1991(2) KLT 158], mere inadequacy of the price fetched at the

sale would not by itself is a sufficient ground to set aside the sale. That apart, it is shocking to note that the petitioner was not even issued a notice. Exts.P3, P5 and the proceedings of the Revenue Divisional Officer referred to in Ext.P3 are accordingly quashed. There will be a direction to the respondents to pass orders regarding confirmation of the sale, within one month from the date of production of a copy of the judgment.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

tgs